



# STATE OF MONTANA REQUEST FOR PROPOSAL (RFP)

<b>RFP Number:</b> <b><u>070120</u></b>	<b>RFP Title:</b> <b><u>West Shore State Park – Timber Harvest and Wildfire Hazardous Fuels Reduction Project</u></b>
<b>RFP Response Due Date and Time:</b> <b><u>February 16, 2007</u></b> <b>2:00 pm, Local Time</b>	<b>Number of Pages: 24</b>

## ISSUING AGENCY INFORMATION

<b>Procurement Officer:</b> <b><u>Sally Byrd</u></b>	<b>Issue Date:</b> <b><u>January 25, 2007</u></b>
Procurement Officer: <b>Sally Byrd</b> Address: <b>P.O. Box 200701, 930 Custer Ave</b> Telephone Number: <b>(406) 495-3249</b> Fax Number: <b>(406) 495-3253</b> E-mail Address: <b>sbyrd@mt.gov</b>	Phone: <b>(406) 495-3249</b> Fax: <b>(406) 495-3253</b> TTY Users, Dial 711  Website: <b><a href="http://www.fwp.mt.gov">http://www.fwp.mt.gov</a></b>

## INSTRUCTIONS TO OFFERORS

<b>Return Proposal to:</b>  <b><u>Montana Fish, Wildlife and Parks</u></b> <b><u>Purchasing Office</u></b> <b><u>P.O. Box 200701</u></b> <b><u>930 Custer Avenue</u></b> <b><u>Helena, MT 59620-0701</u></b>	<b>Mark Face of Envelope/Package:</b>  <b>RFP Number: <u>070120</u></b> <b>RFP Response Due Date: February 16, 2007</b>  <b>Special Instructions:</b> <b><u>Pre-proposal conference is scheduled for</u></b> <b><u>February 2, 2007 at 10:00am at West Shore State</u></b> <b><u>Park</u></b>
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## IMPORTANT: SEE STANDARD TERMS AND CONDITIONS

## OFFERORS MUST COMPLETE THE FOLLOWING

<b>Offeror Name/Address:</b>	<b>Authorized Offeror Signatory:</b>  (Please print name and sign in ink)
<b>Offeror Phone Number:</b>	<b>Offeror FAX Number:</b>
<b>Offeror E-mail Address:</b>	

**OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE**

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## OFFEROR'S RFP CHECKLIST

### The 10 Most Critical Things to Keep in Mind When Responding to an RFP for the State of Montana

1. \_\_\_\_\_ **Read the entire document.** Note critical items such as: mandatory requirements; supplies/services required; submittal dates; number of copies required for submittal; funding amount and source; contract requirements (i.e., contract performance security, insurance requirements, performance and/or reporting requirements, etc.).
2. \_\_\_\_\_ **Note the procurement officer's name, address, phone numbers and e-mail address.** This is the only person you are allowed to communicate with regarding the RFP and is an excellent source of information for any questions you may have.
3. \_\_\_\_\_ **Attend the pre-proposal conference** if one is offered. These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the State of any ambiguities, inconsistencies, or errors in the RFP.
4. \_\_\_\_\_ **Take advantage of the “question and answer” period.** Submit your questions to the procurement officer by the due date listed in the Schedule of Events and view the answers given in the formal “addenda” issued for the RFP. All addenda issued for an RFP are posted on the State’s website and will include all questions asked and answered concerning the RFP.
5. \_\_\_\_\_ **Follow the format required in the RFP** when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
6. \_\_\_\_\_ **Provide complete answers/descriptions.** Read and answer **all** questions and requirements. Don’t assume the State or evaluator/evaluation committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the State. The proposals are evaluated based solely on the information and materials provided in your response.
7. \_\_\_\_\_ **Use the forms provided**, i.e., cover page, sample budget form, certification forms, etc.
8. \_\_\_\_\_ **Check the State’s website for RFP addenda.** Before submitting your response, check the State’s website at <http://www.fwp.mt.gov> to see whether any addenda were issued for the RFP. If so, you must submit a signed cover sheet for each addendum issued along with your RFP response.
9. \_\_\_\_\_ **Review and read the RFP document again** to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete. The copies are provided to the evaluator/evaluation committee members and will be used to score your response.
10. \_\_\_\_\_ **Submit your response on time.** Note all the dates and times listed in the Schedule of Events and within the document, and be sure to submit all required items on time. Late proposal responses are **never** accepted.

**This checklist is provided for assistance only and should not be submitted with Offeror’s Response.**

## SCHEDULE OF EVENTS

### EVENT

### DATE

RFP Issue Date .....	<b><u>January 25, 2007</u></b>
Pre-Proposal Conference .....	February 2, 2007
Deadline for Receipt of Written Questions .....	February 7, 2007
Deadline for Posting of Written Responses to the State's Website	February 9, 2007
RFP Response Due Date .....	February 16, 2007
Intended Date for Contract Award .....	week of February 19, 2006

## SECTION 1: PROJECT OVERVIEW AND INSTRUCTIONS

### 1.0 PROJECT OVERVIEW

The STATE OF MONTANA, Fish, Wildlife, & Parks, (hereinafter referred to as "the State") is seeking proposals from qualified contractors to implement forest practices within West Shore State Park which are further described in Section 3, Scope of Project. This project involves harvesting (removing diseased and dead timber), tree thinning, tree planting, noxious weed control, park restoration and general forest health improvements. Harvesting to include felling, bunching, skidding, delimbing, loading and hauling timber to mill(s). Construction of skid trails, skid trail erosion prevention, and slash piling associated with saw-log and pulpwood harvest may be required. Logging contractor will be paid for through the proceeds of the merchantable timber recovered from the park. Due to varying timber prices and contractor availability the proceeds received may not cover the entire cost of the project. Proposals submitted in response to this solicitation must comply with the instructions and procedures contained herein.

### 1.1 CONTRACT TERM

The contract term is for a period of 1 year beginning upon contract execution. Renewals of the contract, by mutual agreement of both parties, may be made at 6-month intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of 3 years, at the option of the State.

### 1.2 SINGLE POINT OF CONTACT

From the date this Request for Proposal (RFP) is issued until an offeror is selected and the selection is announced by the procurement officer, **offerors are not allowed to communicate with any state staff or officials regarding this procurement, except at the direction of Sally Byrd**, the procurement officer in charge of the solicitation. Any unauthorized contact may disqualify the offeror from further consideration. Contact information for the single point of contact is as follows:

Procurement Officer: **Sally Byrd**  
Address: **P.O. Box 200701, 930 Custer Ave**  
Telephone Number: **(406) 495-3249**  
Fax Number: **(406) 495-3253**  
E-mail Address: **sbyrd@mt.gov**

### 1.3 REQUIRED REVIEW

**1.3.1 Review RFP.** Offerors should carefully review the instructions, mandatory requirements, specifications, standard terms and conditions, and contract set out in this RFP and promptly notify the procurement officer identified above in writing or via e-mail of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover upon examination of this RFP. This should include any terms or requirements within the RFP that either preclude the offeror from responding to the RFP or add unnecessary cost. This notification must be accompanied by an explanation and suggested modification and be received by the deadline for receipt of written or e-mailed inquiries set forth below. The State will make any final determination of changes to the RFP.

**1.3.2 Form of Questions.** Offerors with questions or requiring clarification or interpretation of any section within this RFP must address these questions in writing, **via e-mail or fax** ([sbyrd@mt.gov](mailto:sbyrd@mt.gov) or 406-495-3253) to the procurement officer referenced above on or before **2:00 p.m. Mountain Standard Time, February 7, 2007**. Each question must provide clear reference to the section, page, and item in question. Questions received after the deadline may not be considered.

**1.3.3 State's Response.** The State will provide an official written response by **February 9, 2007** to all questions received by **2:00 p.m. Mountain Standard Time, February 7, 2007**. The State's response will be by formal written addendum. Any other form of interpretation, correction, or change to this RFP will not be binding upon the State. Any formal written addendum will be posted on the State's website alongside the posting of the RFP at <http://www.fwp.mt.gov> by the close of business on the date listed. **Offerors must sign and return with their RFP response an Acknowledgment of Addendum for any addendum issued.**

## **1.4 PRE-PROPOSAL CONFERENCE**

A Pre-Proposal Conference will be conducted at **West Shore State Park** on **February 2, 2007** at **10:00am**. Offerors are encouraged to use this opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the State of any ambiguities, inconsistencies, or errors discovered upon examination of this RFP. All responses to questions at the Pre-Proposal Conference will be oral and in no way binding on the State.

## **1.5 GENERAL REQUIREMENTS**

**1.5.1 Acceptance of Standard Terms and Conditions/Contract.** By submitting a response to this RFP, offeror agrees to acceptance of the standard terms and conditions and contract as set out in Appendices A and B of this RFP. Much of the language included in the standard terms and conditions and contract reflects requirements of Montana law. Requests for additions or exceptions to the standard terms and conditions, contract terms, including any necessary licenses, or any added provisions must be submitted to the procurement officer referenced above by the date for receipt of written/e-mailed questions and must be accompanied by an explanation of why the exception is being sought and what specific effect it will have on the offeror's ability to respond to the RFP or perform the contract. The State reserves the right to address non-material requests for exceptions with the highest scoring offeror during contract negotiation. Any material exceptions requested and granted to the standard terms and conditions and contract language will be addressed in any formal written addendum issued for this RFP and will apply to all offerors submitting a response to this RFP. The State will make any final determination of changes to the standard terms and conditions and/or contract.

**1.5.2 Resulting Contract.** This RFP and any addenda, the offeror's RFP response, including any amendments, a best and final offer, and any clarification question responses shall be included in any resulting contract. The State's contract, attached as Appendix B, contains the contract terms and conditions which will form the basis of any contract between the State and the highest scoring offeror. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract, along with any attachments prepared by the State, will govern in the same order of precedence as listed in the contract.

**1.5.3 Mandatory Requirements.** To be eligible for consideration, an offeror ***must*** meet the intent of all mandatory requirements. The State will determine whether an offeror's RFP response complies with the intent of the requirements. RFP responses that do not meet the full intent of all requirements listed in this RFP may be subject to point reductions during the evaluation process or may be deemed non-responsive.

**1.5.4 Understanding of Specifications and Requirements.** By submitting a response to this RFP, offeror agrees to an understanding of and compliance with the specifications and requirements described in this RFP.

**1.5.5 Prime Contractor/Subcontractors.** The highest scoring offeror will be the prime contractor if a contract is awarded and shall be responsible, in total, for all work of any subcontractors. All subcontractors, if any, must be listed in the proposal. The State reserves the right to approve all subcontractors. The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. Further, nothing contained within this

document or any contract documents created as a result of any contract awards derived from this RFP shall create any contractual relationships between any subcontractor and the State.

**1.5.6 Offeror's Signature.** The proposals must be signed in ink by an individual authorized to legally bind the business submitting the proposal. The offeror's signature on a proposal in response to this RFP guarantees that the offer has been established without collusion and without effort to preclude the State of Montana from obtaining the best possible supply or service. Proof of authority of the person signing the RFP response must be furnished upon request.

**1.5.7 Offer in Effect for 120 Days.** A proposal may not be modified, withdrawn or canceled by the offeror for a 120-day period following the deadline for proposal submission as defined in the Schedule of Events, or receipt of best and final offer, if required, and offeror so agrees in submitting the proposal.

## **1.6 SUBMITTING A PROPOSAL**

**1.6.1 Failure to Comply with Instructions.** Offerors failing to comply with these instructions may be subject to point deductions. The State may also choose to not evaluate, may deem non-responsive, and/or may disqualify from further consideration any proposals that do not follow this RFP format, are difficult to understand, are difficult to read, or are missing any requested information.

**1.6.2 Multiple Proposals.** Offerors may, at their option, submit multiple proposals, in which case each proposal shall be evaluated as a separate document.

**1.6.3 Copies Required and Deadline for Receipt of Proposals.** Offerors must submit **one** original proposal and **three (3)** copies to the **Fish Wildlife and Parks purchasing office**. **PROPOSALS MUST BE SEALED AND LABELED ON THE OUTSIDE OF THE PACKAGE** to clearly indicate that they are in response to RFP FWP #**070120**. ***Proposals must be received at the purchasing office of Fish Wildlife and Parks prior to 2:00 p.m., local time, February 16, 2007. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.***

**1.6.6 Late Proposals.** ***Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration.*** It shall be the offeror's sole risk to assure delivery at the receptionist's desk at the designated office by the designated time. Late proposals will not be opened and may be returned to the offeror at the expense of the offeror or destroyed if requested.

## **1.7 COST OF PREPARING A PROPOSAL**

**1.7.1 State Not Responsible for Preparation Costs.** The costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the State are entirely the responsibility of the offeror. The State is not liable for any expense incurred by the offeror in the preparation and presentation of their proposal or any other costs incurred by the offeror prior to execution of a contract.

**1.7.2 All Timely Submitted Materials Become State Property.** All materials submitted in response to this RFP become the property of the State and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the State and offeror resulting from this RFP process.

## **SECTION 2: RFP STANDARD INFORMATION**

### **2.0 AUTHORITY**

This RFP is issued under the authority of section 18-4-304, MCA (Montana Code Annotated) and ARM 2.5.602 (Administrative Rules of Montana). The RFP process is a procurement option allowing the award to be based on stated evaluation criteria. The RFP states the relative importance of all evaluation criteria. No other evaluation criteria, other than as outlined in the RFP, will be used.

### **2.1 OFFEROR COMPETITION**

The State encourages free and open competition among offerors. Whenever possible, the State will design specifications, proposal requests, and conditions to accomplish this objective, consistent with the necessity to satisfy the State's need to procure technically sound, cost-effective services and supplies.

### **2.2 RECEIPT OF PROPOSALS AND PUBLIC INSPECTION**

**2.2.1 Public Information.** All information received in response to this RFP, including copyrighted material, is deemed public information and will be made available for public viewing and copying shortly after the time for receipt of proposals has passed with the following three exceptions: (1) bona fide trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA, that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by the State; and (3) other constitutional protections. See Mont. Code Ann. § 18-4-304.

**2.2.2 Procurement Officer Review of Proposals.** Upon opening the proposals received in response to this RFP, the procurement officer in charge of the solicitation will review the proposals and separate out any information that meets the referenced exceptions in Section 2.2.1 above, providing the following conditions have been met:

- Confidential information is clearly marked and separated from the rest of the proposal.
- The proposal does not contain confidential material in the cost or price section.
- An affidavit from an offeror's legal counsel attesting to and explaining the validity of the trade secret claim as set out in Title 30, chapter 14, part 4, MCA, is attached to each proposal containing trade secrets. Counsel must use the State of Montana "Affidavit for Trade Secret Confidentiality" form in requesting the trade secret claim. This affidavit form is available on the General Services Division's website at: <http://www.mt.gov/dao/gsd/procurement/forms.asp> or by calling (406) 444-2575.

Information separated out under this process will be available for review only by the procurement officer, the evaluator/evaluation committee members, and limited other designees. Offerors must be prepared to pay all legal costs and fees associated with defending a claim for confidentiality in the event of a "right to know" (open records) request from another party.

### **2.3 CLASSIFICATION AND EVALUATION OF PROPOSALS**

**2.3.1 Initial Classification of Proposals as Responsive or Nonresponsive.** All proposals will initially be classified as either "responsive" or "nonresponsive," in accordance with ARM 2.5.602. Proposals may be found nonresponsive at any time during the procurement process if any of the required information is not provided; the submitted price is found to be excessive or inadequate as measured by criteria stated in the RFP; or the proposal is not within the plans and specifications described and required in the RFP. If a proposal is found to be nonresponsive, it will not be considered further.



**2.3.2 Determination of Responsibility.** The procurement officer will determine whether an offeror has met the standards of responsibility in accordance with ARM 2.5.407. Such a determination may be made at any time during the procurement process if information surfaces that would result in a determination of nonresponsibility. If an offeror is found nonresponsible, the determination must be in writing, made a part of the procurement file and mailed to the affected offeror.

**2.3.3 Evaluation of Proposals.** An evaluator/evaluation committee will evaluate the remaining proposals and recommend whether to award the contract to the highest scoring offeror or, if necessary, to seek discussion/negotiation or a best and final offer in order to determine the highest scoring offeror. All responsive proposals will be evaluated based on stated evaluation criteria. In scoring against stated criteria, the State may consider such factors as accepted industry standards and a comparative evaluation of all other qualified RFP responses in terms of differing price, quality, and contractual factors. These scores will be used to determine the most advantageous offering to the State. If an evaluation committee meets to deliberate and evaluate the proposals, the public may attend and observe the evaluation committee deliberations.

**2.3.4 Completeness of Proposals.** Selection and award will be based on the offeror's proposal and other items outlined in this RFP. Submitted responses may not include references to information located elsewhere, such as Internet websites or libraries, unless specifically requested. Information or materials presented by offerors outside the formal response or subsequent discussion/negotiation or "best and final offer," if requested, will not be considered, will have no bearing on any award, and may result in the offeror being disqualified from further consideration.

**2.3.5 Opportunity for Discussion/Negotiation and/or Oral Presentation/Product Demonstration.** After receipt of all proposals and prior to the determination of the award, the State may initiate discussions with one or more offerors should clarification or negotiation be necessary. Offerors may also be required to make an oral presentation and/or product demonstration to clarify their RFP response or to further define their offer. In either case, offerors should be prepared to send qualified personnel to Helena, Montana, to discuss technical and contractual aspects of the proposal. Oral presentations and product demonstrations, if requested, shall be at the offeror's expense.

**2.3.6 Best and Final Offer.** The "Best and Final Offer" is an option available to the State under the RFP process, which permits the State to request a "best and final offer" from one or more offerors if additional information is required to make a final decision. Offerors may be contacted asking that they submit their "best and final offer," which must include any and all discussed and/or negotiated changes. The State reserves the right to request a "best and final offer" for this RFP, if any, based on price/cost alone.

**2.3.7 Evaluator/Evaluation Committee Recommendation for Contract Award.** The evaluator/evaluation committee will provide a written recommendation for contract award to the procurement officer that contains the scores, justification and rationale for the decision. The procurement officer will review the recommendation to ensure its compliance with the RFP process and criteria before concurring in the evaluator's/evaluation committee's recommendation.

**2.3.8 Request for Documents Notice.** Upon concurrence with the evaluator's/evaluation committee's recommendation for contract award, the procurement officer will issue a "Request for Documents Notice" to the highest scoring offeror to obtain the required insurance documents, contract performance security, an electronic copy of any requested material, i.e., response to clarification questions and/or Best and Final Offer, and any other necessary documents. Receipt of the "Request for Documents Notice" does not constitute a contract and no work may begin until a contract signed by all parties is in place. The procurement officer will notify all other offerors of the State's intent to begin contract negotiation with the highest scoring offeror.

**2.3.9 Contract Negotiation.** Upon issuance of the "Request for Documents Notice," the procurement officer and/or state agency representatives may begin contract negotiation with the responsive

and responsible offeror whose proposal achieves the highest score and is, therefore, the most advantageous to the State. If contract negotiation is unsuccessful or the highest scoring offeror fails to provide necessary documents or information in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations and begin negotiations with the next highest scoring offeror.

**2.3.10 Contract Award.** Contract award, if any, will be made to the highest scoring offeror who provides all required documents and successfully completes contract negotiation. A formal contract utilizing the Contract attached as Appendix B and incorporating the Standard Terms and Conditions attached as Appendix A will be executed by all parties.

## **2.4 STATE'S RIGHTS RESERVED**

While the State has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State of Montana to award and execute a contract. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- cancel or terminate this RFP (Mont. Code Ann. § 18-4-307);
- reject any or all proposals received in response to this RFP (ARM 2.5.602);
- waive any undesirable, inconsequential, or inconsistent provisions of this RFP which would not have significant impact on any proposal (ARM 2.5.505);
- not award if it is in the best interest of the State not to proceed with contract execution (ARM 2.5.602); or
- if awarded, terminate any contract if the State determines adequate state funds are not available (Mont. Code Ann. § 18-4-313).

## **SECTION 3: SCOPE OF PROJECT**

### **3.0 PROJECT OVERVIEW**

The STATE OF MONTANA, Fish, Wildlife, & Parks, (hereinafter referred to as "the State") is seeking proposals from qualified contractors to implement forest practices within West Shore State Park. This project involves harvesting (removing diseased and dead timber), tree thinning, tree planting, noxious weed control, park restoration and general forest health improvements. Harvesting to include felling, bunching, skidding, delimbing, loading and hauling timber to mill(s). Construction of skid trails, skid trail erosion prevention, and slash piling associated with saw-log and pulpwood harvest may be required. Logging contractor will be paid for through the proceeds of the merchantable timber recovered from the park. Due to varying timber prices and contractor availability the proceeds received may not cover the entire cost of the project. Proposals submitted in response to this solicitation must comply with the instructions and procedures contained herein.

### **3.1 Location**

West Shore State Park, approximately 140 acres, is located about 5 miles south of Lakeside, MT, located between US Hwy 93 and Flathead Lake, SW ¼, Sec. 4, T26N, R21W, Lake County, MT.

### **3.2 Scope of Project**

**3.2.1 Introduction:** DESIRED FUTURE CONDITION (GOAL): The Montana Fish Wildlife and Parks (FWP) desires to maintain the property over time for safe public use with a forest cover that is healthy, and fire and wind resistant. Large mature trees are desired as the general forest cover over time. Tree crowns and root systems need adequate site resources (sun, water, soil nutrients) in order to resist insect and disease attack. Tree crowns that are not touching will have adequate site resources to grow and

remain healthy as well as providing a crown fire resistant stand or community of trees. A healthy stand will have a mixture of tree species native to the site. There will be some diversity of tree sizes and ages on the site to provide replacements as some large trees die over time. A long-term goal is to restore the site to the historic stand structure of large open park-like stands dominated by ponderosa pine, western larch, and some Douglas-fir.

**3.2.2 EXISTING CONDITION:** Existing stands are characterized by lack of disturbance for 7 decades. The steep east, south and west facing slopes in the center of the park has naturally open, widely space Douglas fir that is growing well and has little evidence of insect or diseases. The gentle slopes and benches around the edges of the property have denser stands of 70 year old Douglas-fir and larch with some remnant old growth trees that survived the last fire 70-80 years ago. There has been considerable mortality in the overcrowded fir and in the scattered lodgepole pine on the west boundary.

The stands dominated by Douglas-fir are still young and vigorous enough that extensive infections of disease and insects are not yet a problem even though there is some present in the stands. Douglas-fir is especially prone to several species of root rot. Root rot is caused by a fungus that kills the roots of a tree often killing the tree by weakening the tree so that it is vulnerable to bark beetle attack and windthrow. Douglas-fir bark beetle is a beetle adapted to specifically attack Douglas-fir. The bark beetle can detect which Douglas-fir trees are under stress by the organic compounds evaporating from the tree. By zeroing in on stressed trees that are deprived of water by effects of dwarf mistletoe, root rot, and drought, hundreds of adult beetle bore into the tree and tunnel between the bark and wood while laying eggs. The eggs hatch and thousands of grub worms begin to feed on the cambium of the tree. The adult beetle and larval galleries girdle the tree and deprive the crown of food and water to kill the tree. Douglas-fir are exceptionally vulnerable to the combined effects of dwarf mistletoe, root rot, bark beetles and drought. It is usually difficult to attribute the cause of death to a single pathogen or cause. Multiple agents of change are almost always there. Competition for site resources from excess Douglas-fir is stressing the surviving ponderosa pine causing them to be more vulnerable to bark beetle attack. In addition to the wide array of pests affecting Douglas-fir, lower limbs persist long after they die from lack of sun often providing a ladder of dead limbs that allows a fire to easily spread into the thick upper crowns. Stands with heavy composition of Douglas-fir are more prone to severe crown fires than stand s of ponderosa pine and larch. When Native American and natural fires burned valley sites like West Shore regularly, these same traits caused the fires to kill the young Douglas-fir and favored the survival of ponderosa pine and larch. Ponderosa pine and larch are more resistant to all of the agents of change than Douglas-fir, so they are better choices for recreation site tree cover when available.

The biologic factors described above are resulting in accumulating ground fuels due to weather breakage of mistletoe weakened, abnormally branched trees, and dense tree crowns capable of carrying catastrophic crown fires. Due to the density of Douglas-fir under and around surviving ponderosa pine, if a fire were to get started, a crown fire will almost certainly result, and would cause the destruction of the ponderosa pine.

These stand conditions are prevalent on the west and north boundaries of the park. A fire start near the highway and power line could rapidly develop into a crown fire in severe burning conditions, threatening the developed sites and adjacent private property. These existing conditions of continuous dense forests full of dead material and ladder fuels are not stable long-term conditions due to high risk of complete destruction by catastrophic fire. A desired condition of a restored natural stand structure of open grown healthy mature/old growth trees resistant to fire, insects and disease must be maintained by periodic biomass removal.

Commercial logging along with required slash disposal is the only cost effective way to manage the accumulation of biomass which research has shown to have an average energy equivalent to 300 gallon of gasoline per acre per year. Thinning only small trees in the understory is extremely costly, only produces a small short term fire control benefit, and makes little change in the potential for a catastrophic wind driven crown fire (Fiedler, Carl, et. al., 2001. A Strategic Assessment of Fire Hazard in Montana. University of

Montana, School of Forestry, September 29, 2001.). Prescribed burning without associated removal of excess biomass is extremely costly and presents a high liability risk.

### **3.2.3 SITE SPECIFIC PRESCRIPTION:**

**Unit 1.** Recommend treating approximately 50 acres along the west and north boundary (see map) with a variable commercial thinning and fuel reduction. Tree crowns must be thinned out to reduce the possibility of fire racing from crown to crown and ground fuels must be reduced. Salvaging dead trees and thinning the stand using a general tree spacing guide of 20-30 feet between trees can accomplish fuel reduction. Where there are old growth larch and ponderosa pine, the undergrowth thicket of fir and larch should be removed around these trees for 35-75 feet. This will protect the old growth trees by removing the fuel ladder that could carry a fire into their crown. It will also ensure they will have adequate water and nutrients and it will provide an open area so that the pine will reproduce. Ponderosa must have nearly full sunlight to germinate and grow. All existing live ponderosa pine will be left, while thinning the existing live Douglas-fir as described above. This will give the best trees increased light, water, and nutrients they need to resist insect and disease attack and become more resistant to wind. Sound snags that are not a safety hazard will be left standing for bird habitat and any large rotting logs will be left on the ground.

The ponderosa pines are currently in good condition, however beetles are on the increase with one large ponderosa in the South campground killed in summer of 2006 by beetles.

**Unit 2.** This is an approx. 10 acres, that is almost entirely overly dense Douglas-fir. The stand is still pretty vigorous and could grow another 20 years before becoming prone to root rot and bark beetles. The unit lies on a bench below the new campground. The crowns of this stand help block the view to the lake from the camping spots and road. A commercial thinning at this time would ensure the crop trees would remain vigorous and grow to a large size while improving the views to the lake from the new campground. This thinning would leave the biggest and best tree on a 25-30 foot spacing guide.

**Unit 3.** The balance of the park is predominately vigorous Douglas-fir that needs no treatment beyond routine maintenance of dead tree removal. Sanitation and salvage of existing dead and high-risk trees shall be done by the operator while his equipment is on site. All trees required for removal shall be flagged as such.

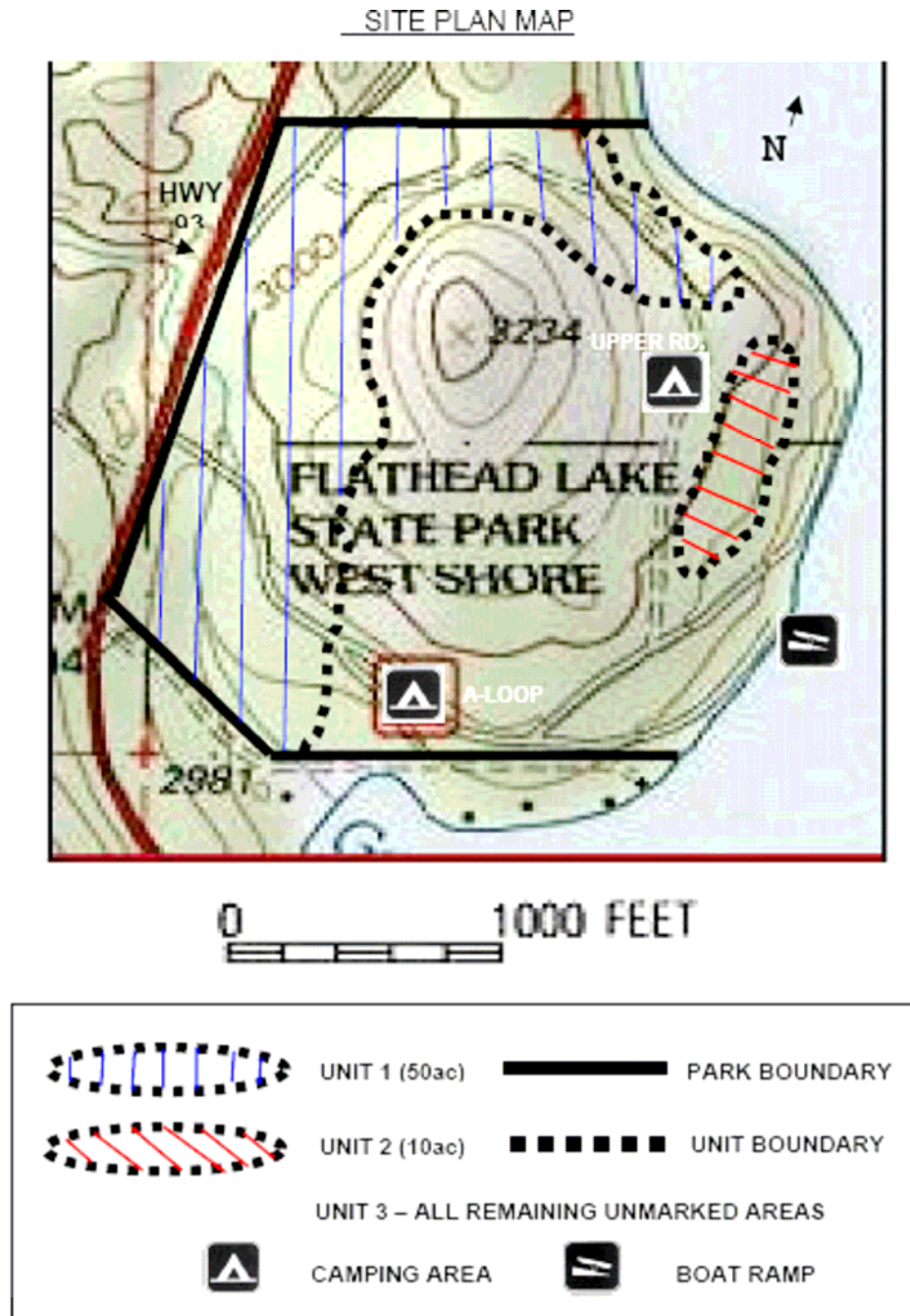
**3.2.4 IMPLEMENTATION:** Trees become the property of the successful contractor upon severance from the stump. The treatment will be implemented through a commercial thinning timber sale specifying mechanical harvesters and transport logs and slash to designated loading or disposal areas. The commercial thinning will take place in the winter when the ground is frozen to minimize ground and vegetative disturbance. Native grass seeds will be sewn in all areas of ground disturbance. Stumps will be cut to ground level in all areas with heavy recreation traffic. The commercial value of the excess trees on the site should cover the cost of the project and the complete disposal of the slash resulting from the harvested trees as well as the natural accumulation of excess ground fuels. The leave trees will be marked with orange ribbons by a professional forester. The stand marked for thinning will be available for public review prior to seeking bids.

The thinning and slash disposal operation will be conducted in one of the following alternatives/options in order of desirability, with the final decision based on financial feasibility, and environmental and recreational impacts:

- 1) Remove/salvage dead trees, thin and chip and haul all slash from site in winter (February/March, 2007) with snow and frozen ground (Stone Container has such equipment).
- 2) Remove/salvage dead trees, thin and progressively burn the slash during the open burning season in March 2007 using a burning boat.
- 3) Remove/salvage dead trees, thin and progressively burn the slash during the open burning season March 2007 using designated burning area on old Highway on west boundary.

**3.2.5 OFFEROR RESPONSE:** Bidder will submit an Operation Plan specifying the their methods to provide services for proposed slash disposal to include methods and equipment to be used. Operations plan

to specify desirability of alternatives/options for thinning and slash disposal detailed in section 3, 3.2.4. Bidder will submit a cost proposal that includes a total project cost and timeline for completion of project. The contract will be awarded to the successful bidder based on evaluation of his operating plan, resume, and references as well as stumpage price if any. Any excess value of the trees removed over costs will go to the Real Property Trust. The interest from the Real Property Trust is used for Fish, Wildlife and Parks Operations and Maintenance. Pending the outcome of the public EA process and the actual final cost proposal, all or some of the unit treatment specifics may be altered to address public concern or lack of budget authority.



**3.2.6 PREPROPOSAL SITE INSPECTION:** A pre-proposal walk-through will be conducted on Saturday, February 2, 2007 at 10:00am to meet with Regional and Helena Fish, Wildlife and Parks Personnel and Fred Hodgeboom, the forester for this project, so prospective contractors can view the site and ask specific questions regarding expectations and criteria. Prospective Offerors should meet in the parking lot at West Shore

State Park. Prospective Offerors should review the project on the ground to determine their capability of performing the required biomass removal, their operating costs and estimated value of trees to be removed.

**3.2.7 ON-SITE REQUIREMENTS/CLEANUP:** Each potential contractor is required to visit the job site to verify measurements and to become fully aware of the conditions relating to the project and the labor requirements. Failure to do so will not relieve the successful contractor of their obligation to furnish all materials and labor necessary to carry out the provisions of the contract. The contractor is responsible for any required permits necessary to complete the project.

The contractor shall adequately protect the work, adjacent property, and the public in all phases of the work. The contractor shall be responsible for all damages or injury due to their action or neglect.

The contractor shall maintain access to all phases of the project pending inspection by the State or its representative.

All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance.

The contractor shall respond within seven calendar days after notice of observed defects has been given and shall proceed to immediately remedy these defects. Should the contractor fail to respond to the notice or not remedy the defects, the State may have the work corrected at the expense of the contractor.

In terms of cleanup, the contractor shall:

- (a) clean up any oil or fuel spills;
- (c) keep machinery clean and free of weeds;
- (d) remove all construction smears and stains from finished surfaces;
- (e) perform finishing site preparation to limit the spread of noxious weeds before final payment by the State; and
- (f) remove all equipment, tools and excess materials before final payment by the State.

Unmarked or undesignated trees, wildlife trees or boundary trees which are cut or injured through carelessness shall be considered cut in trespass and charged for at the rate of \$50.00 each in addition to the scaled rate. The amounts specified shall be regarded as liquidated damages and may be waived at the discretion of the Seller in accidental or exceptional cases which involve small amounts of material or minor deviation from the conditions, standards or specifications.

## **SECTION 4: OFFEROR QUALIFICATIONS/INFORMATIONAL REQUIREMENTS**

### **4.0 STATE'S RIGHT TO INVESTIGATE AND REJECT**

The State may make such investigations as deemed necessary to determine the ability of the offeror to provide the supplies and/or perform the services specified. The State reserves the right to reject any proposal if the evidence submitted by, or investigation of, the offeror fails to satisfy the State that the offeror is properly qualified to carry out the obligations of the contract. *This includes the State's ability to reject the proposal based on negative references.*

Submitting a proposal: Prospective Offerors should provide the following information

1. Qualifications and experience of Contractor
2. Proof of General Liability, Workers Compensation insurance and/or Independent Contractor's Registration and tax identification number.
3. Offerors signature and date

## **4.1 OFFEROR INFORMATIONAL REQUIREMENTS**

In determining the capabilities of an offeror to perform the services specified herein, the following informational requirements must be met by the offeror. **(Note: Each item must be thoroughly addressed in the RFP Response. Offerors taking exception to any requirements listed in this section may be found non-responsive or be subject to point deductions.)**

**4.1.1 References.** Offeror shall provide a minimum of three references that are using services of the type proposed in this RFP. The references may include state government or universities where the offeror, preferably within the last **three** years, has successfully completed fuels reduction contracts. At a minimum, the offeror shall provide the company name, the location where the services were provided, contact person(s), customer's telephone number, a complete description of the service type, and dates the services were provided. These references may be contacted to verify offeror's ability to perform the contract. The State reserves the right to use any information or additional references deemed necessary to establish the ability of the offeror to perform the conditions of the contract. Negative references may be grounds for proposal disqualification.

**4.1.2 Resumes/Company Profile and Experience.** Offeror must have a minimum of **3** years professional timber harvesting experience and must be an accredited logger by the Montana Logging Association. Contractor must have demonstrated experience in all aspects of logging including felling, yarding, processing, and hauling of saw-logs and pulpwood. Offeror shall specify how long the individual/company submitting the proposal has been in the business of providing services similar to those requested in this RFP and under what company name. Offeror to describe applicability of experience with private/public sector. A resume or summary of qualifications, work experience, education, skills, etc., which emphasizes previous experience in this area should be provided for all key personnel who will be involved with any aspects of the contract.

**4.1.3 Method of Providing Services.** Offeror shall provide a description of a work plan and the methods to be used that will convincingly demonstrate to the State what the offeror intends to do, the timeframes necessary to accomplish the work, and how the work will be accomplished to meet the contract requirements as more specifically detailed above in Section 3. The State desires that the bulk of this project be completed by the March 23, 2007. Offeror to provide a written plan of operations describing how the tree thinning and complete slash disposal will be implemented on the ground, including type of equipment to be used, how slash will be disposed of, projected time frames, and reporting methods used to inventory the marketable timber. Identify who the on-site contractor representative will be and how often they will be on-site. If subcontractors will be used, provide names and addresses. All subcontractors must meet the Minimum Contractor Qualifications as described above. In regard to commercial timber harvesting, please describe in detail how each of the following will be accomplished:

Felling, Skidding (include location of skid trails), Loading, Limbing and Bucking (slash shall be piled to facilitate chipping and removal of hog fuel), Slash Disposal

## **SECTION 5: COST PROPOSAL**

### **5.0 Cost Proposal and Timeline**

The offeror shall provide a complete project cost/surplus proposal and a cost/surplus proposal for each of the three identified Units, as described in section 3, number 3.2.3, and an estimated timeline for completion of the project. Harvesting to include felling, bunching, skidding, limbing, loading and hauling to designated mills. Costs associated with construction of skid trails, skid trail erosion work, and slash piling associated with saw-log and pulpwood harvest are also to be included in the proposal. The State desires that the bulk of this project be completed by the March 23, 2007

## SECTION 6: EVALUATION PROCESS

### 6.0 BASIS OF EVALUATION

The evaluator/evaluation committee will review and evaluate the offers according to the following criteria based on a **total number of 1000 points**.

The **References, Resumes/Company Profile and Experience and Method of Providing Services** portions of the offer will be evaluated based on the following Scoring Guide. The **Cost Proposal** will be evaluated based on the formula set forth below.

### 6.1 EVALUATION CRITERIA

References		Pass/Fail
Category	Section of RFP	Point Value
A. References Included with Offeror's Response	4.1.1	Pass/Fail

Resumes/Company Profile and Experience		20% of points for a possible 200 points
Category	Section of RFP	Point Value
A. Years of Experience	4.1.2	50
B. Applicability of Experience with Private/Public Sector	4.1.2	100
C. Staff Qualifications	4.1.2	50

Method of Providing Services		40% of points for a possible 400 points
Category	Section of RFP	Point Value
A. Methods	4.1.3	200
B. Work Plan	4.1.3	100
C. Reporting Methods	4.1.3	100

Cost Proposal and Timeline		40% of points for a possible 400 points
Category	Section of RFP	Point Value
A. Cost Proposal	5.0	200
B. Timeline for Project	5.0	200

Lowest overall cost receives the maximum allotted points. All other proposals receive a percentage of the points available based on their cost relationship to the lowest. Example: Total possible points for cost is 30. Offeror A's cost is \$20,000. Offeror B's cost is \$30,000. Offeror A would receive 30 points, Offeror B would receive 20 points ( $\$20,000/\$30,000 = 67\% \times 30 \text{ points} = 20$ ).

Lowest Responsive Offer Total Cost

\_\_\_\_\_ x Number of available points = Award Points

This Offeror's Total Cost



## **Appendix A**

### **Standard Terms and Conditions**

**By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.**

**ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES:** The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

**ACCESS AND RETENTION OF RECORDS:** The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

**ALTERATION OF SOLICITATION DOCUMENT:** In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

**AUTHORITY:** The attached bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

**COMPLIANCE WITH LAWS:** The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

**CONFORMANCE WITH CONTRACT:** No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

**DEBARMENT:** The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

**DISABILITY ACCOMMODATIONS:** The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

**FACSIMILE RESPONSES:** Facsimile responses will be accepted for invitations for bids, small purchases, or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

**FAILURE TO HONOR BID/PROPOSAL:** If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

**FORCE MAJEURE:** Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party is using its best efforts to remedy such failure or delays.

**HOLD HARMLESS/INDEMNIFICATION:** The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

**LATE BIDS AND PROPOSALS:** Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to ensure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

**PAYMENT TERM:** All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors will be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

**RECIPROCAL PREFERENCE:** The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov/procurement/preferences.asp>.

**REFERENCE TO CONTRACT:** The contract or purchase order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract.

**REGISTRATION WITH THE SECRETARY OF STATE:** Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or

country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

**SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

**SHIPPING:** Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

**SOLICITATION DOCUMENT EXAMINATION:** Vendors shall promptly notify the State of any ambiguity, inconsistency, or error which they may discover upon examination of a solicitation document.

**TAX EXEMPTION:** The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

**TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED:** Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Section 18-5-603, MCA.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

**TERMINATION OF CONTRACT:** Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

**UNAVAILABILITY OF FUNDING:** The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Section 18-4-313(4), MCA.)

**U.S. FUNDS:** All prices and payments must be in U.S. dollars.

**VENUE:** This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

**WARRANTIES:** The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship, and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance, and/or use desired. Exceptions will be rejected.

**West Shore State Park –**  
**Timber Harvest and Wildfire Hazardous Fuels Reduction Project**  
**(INSERT CONTRACT NUMBER)**

**1. PARTIES**

THIS CONTRACT is entered into by and between the State of Montana **Fish Wildlife and Parks,** (hereinafter referred to as “the State”), whose address and phone number are **P O Box 200701, Helena MT 59620-0701, (406)444-3704** and **(insert name of contractor)**, (hereinafter referred to as the “Contractor”), whose address and phone number are **(insert address)** and **(insert phone number)**.

**THE PARTIES AGREE AS FOLLOWS:**

**2. EFFECTIVE DATE, DURATION, AND RENEWAL**

**2.1 Contract Term.** The contract term is for a period of 1 year beginning upon contract execution. Renewals of the contract, by mutual agreement of both parties, may be made at 6-month intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of 3 years, at the option of the State.

**3. SERVICES AND/OR SUPPLIES**

Contractor agrees to provide to the State the following: implement forest practices within West Shore State Park. This project involves harvesting (removing diseased and dead timber), tree thinning, tree planting, noxious weed control, park restoration and general forest health improvements. Harvesting to include felling, bunching, skidding, delimbing, loading and hauling timber to designated mill(s). Construction of skid trails, skid trail erosion prevention, and slash piling associated with saw-log and pulpwood harvest may be required.

**4. CONSIDERATION/PAYMENT**

**4.1 Payment Schedule.** In consideration for the **West Shore State Park – Timber Harvest and Wildfire Hazardous Fuels Reduction Project** to be provided, the State shall pay according to the following schedule: **(insert pay schedule)**.

**4.2 Withholding of Payment.** The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

**5. ACCESS AND RETENTION OF RECORDS**

**5.1 Access to Records.** The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Section 18-1-118, MCA)

**5.2 Retention Period.** The Contractor agrees to create and retain records supporting the **West Shore State Park – Timber Harvest and Wildfire Hazardous Fuels Reduction Project** for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation, or exception relating to this contract taken by the State of Montana or a third party.

**6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING**

The Contractor shall not assign, transfer, or subcontract any portion of this contract without the express written consent of the State. (Section 18-4-141, MCA) The Contractor shall be responsible to the State for

the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

## **7. HOLD HARMLESS/INDEMNIFICATION**

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

## **8. REQUIRED INSURANCE**

**8.1 General Requirements.** The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**8.2 Primary Insurance.** The Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

**8.3 Specific Requirements for Commercial General Liability.** The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of **\$500,000** per occurrence and **\$1,000,000** aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products, and completed operations; premises owned, leased, occupied, or used.

**8.4 Specific Requirements for Automobile Liability.** The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns, or subcontractors. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

**8.6 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**8.7 Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

## **9. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, upon expiration.

## **10. COMPLIANCE WITH LAWS**

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

## **11. CONTRACT TERMINATION**

**11.1 Termination for Cause.** The State may, by written notice to the Contractor, terminate this contract in whole or in part at any time the Contractor fails to perform this contract.

**11.2 Reduction of Funding.** The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See section 18-4-313(4), MCA.)

## **12. LIAISON AND SERVICE OF NOTICES**

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

\_\_\_\_\_ will be the liaison for the State.

(Address):

(City, State, ZIP):

Telephone:

Cell Phone:

Fax:

E-mail:

\_\_\_\_\_ will be the liaison for the Contractor.

(Address):

(City, State, ZIP):

Telephone:

Cell Phone:

Fax:

E-mail:

The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints will first be directed to the liaison.

### **13. MEETINGS**

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

### **14. TRANSITION ASSISTANCE**

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

### **15. CHOICE OF LAW AND VENUE**

The laws of Montana govern this contract. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See section 18-1-401, MCA.)

### **16. SCOPE, AMENDMENT, AND INTERPRETATION**

**16.1 Contract.** This contract consists of (insert number) numbered pages, any Attachments as required, RFP # (insert RFP number), as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

**16.2 Entire Agreement.** These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

### **22. EXECUTION**

The parties through their authorized agents have executed this contract on the dates set out below.

(INSERT AGENCY NAME)  
(Insert Address)  
Insert City, State, Zip)

(INSERT CONTRACTOR'S NAME)  
(Insert Address)  
(Insert City, State, Zip)  
FEDERAL ID #

BY: \_\_\_\_\_  
(Name/Title)

BY: \_\_\_\_\_  
(Name/Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

Approved as to Legal Content:

\_\_\_\_\_  
Legal Counsel (Date)

Approved as to Form:

\_\_\_\_\_  
Procurement Officer (Date)  
State Procurement Bureau